
What's New and Other Important Information for 2008

Differences between California and Federal Law

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2005. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to our website at ftb.ca.gov and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

2008 Tax Law Changes/What's New

Electronic Payments – Taxpayers are required to remit their payments electronically if they make an estimated or extension payment exceeding \$20,000 for taxable year 2009 or the total tax liability shown on their original 2009 tax return exceeds \$80,000. Once you meet the threshold, all payments regardless of amount, tax type or taxable year must be remitted electronically. Electronic payments can be made using Web Pay on FTB's website, by using electronic funds withdrawal (EFW) as part of the e-file return, or by using your credit card. For more information go to our website at ftb.ca.gov and search for **mandatory epay**.

Any taxpayer required to remit a payment electronically who makes a payment by other means, shall pay a penalty of one percent of the amount paid, unless it is shown that the failure to make a payment as required was for a reasonable cause and was not the result of willful neglect.

Net Operating Loss – For taxable years beginning in 2008 and 2009, California has suspended the net operating loss (NOL) carryover deduction. Taxpayers may continue to compute and carryover an NOL during the suspension period. However, taxpayers with net business income of less than \$500,000 or with disaster loss carryovers are not affected by the NOL suspension rules.

The carryover period for suspended losses is extended by:

- Two years for losses incurred in taxable years beginning before January 1, 2008.
- One year for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

Also, NOL carrybacks, NOL carryovers, and the number of taxable years to which the loss may be carried, are modified. For more information, see form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations - Individuals.

Business tax credit limitation – For taxable years beginning on or after January 1, 2008, and before January 1, 2010, there is a limitation on the application of business tax credits for taxpayers whose net business income is \$500,000 or more. The limitation is equal to 50 percent of the net tax before the application of any credits.

Third Party Designee – For taxable years beginning on or after January 1, 2008, you can designate a third party to discuss your tax return with the FTB. For more information, go to the instructions on page 25.

Conformity – For updates regarding the following federal acts, go to our website at ftb.ca.gov and search for **conformity**.

- Economic Stimulus Act of 2008
- Heroes Earnings and Assistance Relief Tax (HEART) Act of 2008

Rice Straw Credit – For taxable years beginning on or after January 1, 2008, the Rice Straw Credit has expired. Unused carryover credits are taken on form FTB 3540, Credit Carryover Summary.

Mortgage Forgiveness Debt Relief – California partially conforms to the federal Mortgage Forgiveness Debt Relief Act of 2007 (P.L. 110-142) for the 2007 and 2008 tax years. California limits the amount of qualified principal residence indebtedness to \$800,000 (\$400,000 for married/RDP filing separately) (the federal limit is \$2,000,000/\$1,000,000 for married filing separately) and debt relief to \$250,000 (\$125,000 for married/RDP filing separately). For more information, go to our website at ftb.ca.gov and search for **mortgage forgiveness**.

Estimated Tax Payments – Installments due for each taxable year beginning on or after January 1, 2009 are now required to be 30 percent of the required estimated tax liability for the 1st and 2nd required installments and 20 percent of the required estimated tax liability for the 3rd and 4th required installments. Prior to this law change, installments were made in four equal (25%) payments.

Taxpayers with adjusted gross income over \$1,000,000 (\$500,000 for married/RDP filing separately) may no longer compute estimate payments based on 100% of the tax shown on the return of the preceding year.

Taxpayers with a tax liability less than \$500 (\$250 for married/RDP filing separately) do not need to make estimated tax payments.

Voluntary Contributions – For taxable years beginning on or after January 1, 2008, you may contribute to the following new funds:

- California Ovarian Cancer Research Fund
- Municipal Shelter Spay-Neuter Fund
- California Cancer Research Fund
- ALS/Lou Gehrig's Disease Research Fund

Same-Sex Married Couples – Married couples must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. Same-sex couple marriages performed in California on June 16, 2008 and before November 5, 2008 have been recognized as valid marriages for California purposes. For more information, get FTB Pub. 776, Tax Information for Same-Sex Married Couples.

Proposition 8 was approved by the voters on November 4, 2008, and it provides that "only marriage between a man and a woman is valid or recognized in California." Lawsuits challenging the Proposition have been filed. To find updates and information about the filing status to be used on your 2008 return, go to our website at ftb.ca.gov and search for **same sex married couples** or get FTB Pub. 776, Tax Information for Same-Sex Married Couples.

Group Nonresident Returns (also known as Composite Returns) – For taxable years beginning on or after January 1, 2009:

- Group nonresident returns may include less than two nonresident individuals.
- Nonresident individuals with more than \$1,000,000 of California taxable income are eligible to be included in group nonresident returns.
- An additional one percent tax will be assessed on nonresident individuals who would have California taxable income over \$1,000,000.

See FTB Pub. 1067, Guidelines for Filing a Group Form 540NR, for more information.

Riverside County Wind Damage – For tax treatment information for victims of extremely strong and damaging winds that occurred in October 2007 in Riverside county, get FTB Pub. 1034, How to Claim a State Tax Deduction for Your Disaster Loss.

Humboldt County Fire and California Wildfires 2008 – For tax treatment information for victims of the Humboldt county fire that occurred in May 2008 or wildfires that occurred in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity counties, get FTB Pub. 1034.

Inyo Complex Fire – For tax treatment information for victims of the Inyo Complex Fire and subsequent damage that occurred as a result of severe rainstorms in July 2008, get FTB Pub. 1034.

Southern California Wildfires 2008 – For tax treatment information for victims of the Tea Fire in Santa Barbara county, the Sayre fire in Los Angeles county, and Triangle Complex (formerly named Freeway Complex) fire in Orange and Riverside counties that occurred in November 2008, get FTB Pub. 1034.

Other Important Information

Round Cents to Dollars – Round cents to the nearest whole dollar. For example, round \$50.50 up to \$51 or round \$25.49 down to \$25. If you do not round, the FTB will disregard the cents. This helps process your return quickly and accurately.

Direct Deposit Refund – You can request a direct deposit refund on your tax return whether you e-file or file a paper return. Please be sure to fill in the routing and account numbers carefully and double-check the numbers for accuracy to avoid it being rejected by your bank.

MyFTB Account – Make tax time less taxing! Check MyFTB Account for information about your estimated tax payments, FTB issued 1099-Gs, 1099-INTs, California wage and withholding data, and more! Go to our website at ftb.ca.gov and search for **myftb account**.

Withholding on California Real Estate – For transactions occurring on or after January 1, 2007, that require withholding, a seller of California real estate may elect an alternative to withholding 3 1/3 percent of the total sales price. The seller may elect an alternative withholding amount based on the maximum tax rate for individuals, corporations, or banks and financial corporations, as applied to the gain on the sale. The seller is required to certify under penalty of perjury the alternative withholding amount to the FTB. For real estate installment sales, if a buyer receives

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seller's certification as to an alternative withholding election, the buyer would be required to withhold either the full alternative withholding amount at the time of sale or an alternative withholding percentage on the amount of each installment payment.

Tax Shelter – If the individual was involved in a reportable transaction, including a listed transaction, the individual may have a disclosure requirement. Attach the federal Form 8886, Reportable Transaction Disclosure Statement, to the back of the California return along with any other supporting schedules. If this is the first time the reportable transaction is disclosed on the return, send a duplicate copy of the federal Form 8886 to the address below. The FTB may impose penalties if the individual fails to file federal Form 8886, Form 8918, Material Advisor Disclosure Statement, or any other required information. A material advisor is required to provide a reportable transaction number to all taxpayers and material advisors for whom the material advisor acts as a material advisor.

ATSU 398 MS F385
FRANCHISE TAX BOARD
PO BOX 1673
SACRAMENTO CA 95812-9900

For more information, go to our website at ftb.ca.gov and search for **tax shelters**.